

U.S. House and Senate Notification
Friday, July 2, 2010

To: Congressional Health Staff

From: Amy Hall
Director, Office of Legislation
Centers for Medicare & Medicaid Services

Re: CMS Proposes CY 2011 Policy and Payment Rate Changes for
Hospital Outpatient Departments and Ambulatory Surgical
Centers

Today, the Centers for Medicare & Medicaid Services (CMS) issued a proposed rule that includes updates to the policies and payment rates for covered outpatient department services furnished on or after January 1, 2011 by hospital outpatient departments (HOPDs) in more than 4,000 hospitals paid under the Outpatient Prospective Payment System (OPPS). The proposed rule would also update policies and payment rates for services in approximately 5,000 Medicare-participating ambulatory surgical centers (ASCs), under a payment system that aligns ASC payments with payments for the corresponding services in HOPDs. Calendar year (CY) 2011 is the first year the revised ASC payment system rates will be fully implemented.

Under the proposed rule, Medicare beneficiaries would see a decline in their out-of-pocket costs for services they receive in HOPDs in CY 2011, from changes required by the Affordable Care Act of 2010. More specifically, the Affordable Care Act waives beneficiary cost-sharing for most Medicare-covered preventive services, including the Initial Preventive Physical Examination (IPPE or “Welcome to Medicare Visit”). This waiver applies not only to the 20 percent coinsurance for the physician’s service, but also to any cost-sharing relating to the separate payment to the facility when the service is furnished in an HOPD, as well as those preventive services, such as colonoscopies, that may be furnished in ASCs.

The proposed rule also addresses implementation of the graduate medical education (GME) provisions of the Affordable Care Act. The Act requires CMS to identify unused residency slots and redistribute them to certain hospitals with qualified residency programs, with a special emphasis on increasing the number of primary care physicians. CMS is also required to redistribute residency slots from hospitals that close down to other teaching hospitals, giving preference to hospitals in the same or a contiguous area as the closed hospital. In addition, the law specifies how to count hours spent by a resident in certain training and research activities, as well as how to count hours spent by a resident in patient care activities in a non-hospital setting, such as a physician’s office.

The proposed rule would make several other significant changes to the OPPS, including:

- Modifying the supervision requirements for outpatient therapeutic services to require direct supervision of the initiation of a service followed by general supervision for a limited set of non-surgical extended duration services, including observation services.

- Establishing separate APCs for partial hospitalization programs in community mental health centers (CMHCs) and for hospital-based programs, while continuing the policy of paying a separate APC per diem payment rates for partial hospitalization services depending on the number of service provided; that is, one APC for three services and a separate one for four or more services.
- Paying for the acquisition and pharmacy overhead costs of separately payable drugs and biologicals without pass-through status furnished in HOPDs at 106 percent of the manufacturers' average sales prices.
- Expanding the set of measures that must be reported by HOPDs to qualify for the full payment update in the succeeding year. The proposed rule includes additions to the set for reporting in CYs 2011, 2012, and 2013 to make it easier for hospitals and the agency to prepare for the changing reporting requirements.

CMS will accept public comments on the proposed rule through August 31, 2010, and will respond to them in a final rule to be issued by November 1.

For more information on the CY 2011 proposals for the OPPOS and ASC payment system, please see www.federalregister.gov/inspection.aspx#special.

Additional information can be found on the CMS Web site at:

OPPOS: www.cms.gov/HospitalOutpatientPPS/

ASC payment system: www.cms.gov/ASCPayment/

If you have any questions about this proposed rule, please contact the CMS Office of Legislation.